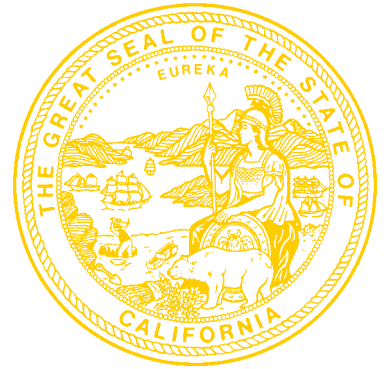


FPPC *Bulletin*



June 2005

Fair Political Practices Commission

Volume 31, No. 2

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Toll-free Advice Line: 1-866-ASK-FPPC

Public officials, local government filing officers, candidates, lobbyists and others with obligations under the Political Reform Act are encouraged to call toll-free for advice on issues including campaign contributions and expenditures, lobbying and conflicts of interest. *FPPC staff members answer thousands of calls for telephone advice each month.*

Veteran Deputy Attorney General Named Enforcement Division Chief

By Jon Matthews
FPPC Publications Editor

The Fair Political Practices Commission has announced the appointment of state Deputy Attorney General John Appelbaum as chief of the FPPC's Enforcement Division.

Appelbaum, 41, brings a distinguished record of public service to his new post at the FPPC. As a veteran official at the state Office of Attorney General, he has prosecuted major civil cases, supervised other attorneys and amassed extensive hands-on trial experience. He also has been employed in private practice, specializing in litigation and general counsel duties for public agencies including the City of Chula Vista.

Since 1993, Appelbaum has served the state as a Deputy Attorney General and Supervising Deputy Attorney General in the areas of civil rights enforcement, correctional law, and health, education and welfare. He has investigated and prosecuted major civil rights violations, including polling-place accessibility, transportation accessibility and immigration rights cases. He has supervised a major section of the Attorney General's staff, defended the state in complex class action lawsuits, and instituted statewide investigations and settlement negotiations.

Appelbaum began his new job at the FPPC on May 23.

"We are delighted to announce that Mr. Appelbaum is leading our Enforcement Division," said FPPC Chair Liane Randolph. "With his strong track record as a litigator and manager, and with his proven ability to prevail in the courtroom and settlement discussions, John will be a tremendous asset to the Commission as it prosecutes violations of the Political Reform Act."

Prior to joining the Office of Attorney General, Appelbaum served

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**California
Fair Political
Practices Commission**

Commissioners

Liane Randolph, Chair
Philip Blair
Sheridan Downey III
A. Eugene Huguenin, Jr.
Ray Remy

Commission Meetings

Meetings are generally scheduled monthly in the Commission Hearing Room, 428 J Street, 8th Floor, Sacramento. Please contact the Commission or check the FPPC web site, <http://www.fppc.ca.gov>, to confirm meeting dates.

Pursuant to section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Decision and Order materials must be received by the FPPC no later than three (3) business days prior to the ten day notice date.

The Commission meeting agenda and supporting documents are available free of charge on the Commission's web site at <http://www.fppc.ca.gov>. Additionally, past and future agendas are posted on the web site.

Appelbaum Joins FPPC.....

(Continued from page 1)

in private practice. He was employed as an associate attorney at the San Diego firm of Jennings, Engstrand & Henrikson, where he specialized in litigation and general counsel for public agencies. In private practice, he also served as legal counsel for the City of Chula Vista, counseling the city on complex litigation matters and drafting municipal ordinances, resolutions and advisory opinions.

Appelbaum holds a Bachelor's degree in communications and history from the University of Colorado and received his law degree, with honors, from George Washington University. He lives in Roseville with his wife, Marianne, and two children.

The Fair Political Practices Commission was created by the Political Reform Act of 1974, a ballot initiative passed by California voters as Proposition 9. The Commission administers, interprets and enforces the law relating to financial conflicts of interest, campaign contributions and expenditures, and lobbying disclosure.

The FPPC's Enforcement Division includes attorneys, investigators, accountants, political reform consultants, analysts and support staff. The Enforcement Division is assigned to investigate alleged violations of the Political Reform Act, and where appropriate, initiate formal administrative or civil enforcement proceedings. The division conducts investigations relating to both state and local matters.

Appelbaum succeeds Steven Russo as head of the Enforcement Division. Russo has returned to his previous position as a Senior Commission Counsel at the FPPC. Russo was thanked by the Commission for his service to the Enforcement Division, including his instrumental role in the creation and implementation of the FPPC's streamlined enforcement programs.



John Appelbaum

The FPPC *Bulletin* is published by the Fair Political Practices Commission
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Telephone: 1-916-322-5660

Enforcement hotline: 1-800-561-1861

The *Bulletin* is published quarterly on the FPPC web site. To receive the *Bulletin* by e-mail, use our web site Mailing Lists tool at <http://www.fppc.ca.gov/index.html?id=408>

Commissioners Will Consider Development Of New Strategic Plan for the FPPC

By Jon Matthews
FPPC Publications Editor

The Fair Political Practices Commission this month will consider a proposal to write a new comprehensive strategic plan for the agency.

The FPPC's strategic plan was last revised in 1998-99, although annual planning objectives have been adopted in subsequent years.

At its June 15 monthly meeting, the Commission is expected to consider an agenda item proposing that the plan be updated and revised for 2005-2006. FPPC Executive Director Mark Krausse plans to submit suggestions for beginning the revision process and seek direction and comments from the FPPC's five commissioners.

"Public input will be encouraged through the meeting agenda and comment process," Krausse stressed in a memorandum to the Commission on the proposal.

If the revision project is approved by the Commission, a draft of the updated 2005-2006 plan could be submitted to the commissioners later this year.

In his memorandum, Krausse suggested that the revised plan could focus on three major areas: services to the public, changes to the Political Reform Act of 1974, and resource and staff development.

In the area of staff development, Krausse noted, "With a staffing level of 60 employees (a 12-year low), the Commission faces personnel and other resource challenges. At the same time, the reduction in personnel has caused us to become far more efficient. When the 1998-99 Strategic Plan was adopted, most documents were disseminated in hardcopy, and implementation of a 'fax-on-demand' system was the automation goal. Today, the Commission

has gone to fully electronic dissemination — via "list serve" e-mails and its website — of the quarterly *Bulletin* publication, monthly agenda documents, interested-persons meeting materials, and all forms, manuals and pamphlets.

"As with any organization, improvements can still be made," he added.

The full text of the strategic plan memorandum and related attachments are posted with other June meeting agenda materials on the FPPC's website. The direct link to the memorandum is:

<http://www.fppc.ca.gov/Agendas/06-05/06-05spsmemo.pdf>

Fair Political Practices Commission 2005 Commission Meeting Schedule

The Fair Political Practices Commission currently plans to meet on the following dates during the remainder of calendar year 2005:

Wednesday, June 15
Thursday, July 14
No meeting in August
Thursday, September 1
Thursday, October 6
Thursday, November 3
Thursday, December 1

Meetings generally begin at 9:45 a.m. in the FPPC's 8th floor hearing room at 428 J Street, Sacramento. But please check the FPPC website regularly as dates and times can change. The direct link to our agenda page is:

<http://www.fppc.ca.gov/index.html?id=329>

Commission, Connerly and ACRC Agree to \$95,000 Civil Settlement in Case Involving Proposition 54

The Fair Political Practices Commission has reached a \$95,000 civil settlement with Ward Connerly and his American Civil Rights Coalition (ACRC) for unlawfully failing to disclose contributions supporting Proposition 54 on the October 7, 2003, special election ballot. The terms of the settlement require ACRC and Ward Connerly to admit they violated campaign laws by failing to file reports disclosing the contributions. They filed the reports on May 18.

"It is a shame that the voters were not provided with this information prior to the election, but we are pleased that the disclosures have finally been made," said Commission Chair Liane Randolph.

The settlement resolves a lawsuit filed by the FPPC in Sacramento Superior Court on September 3, 2003. The suit alleged that from January 2002 through June 2003, ACRC and Ward Connerly, as ACRC's CEO, violated campaign disclosure laws by failing to file required campaign statements reporting the sources of \$1.7 million in contributions received by ACRC for the Proposition 54 campaign. The initiative, which would have restricted state and local governments from collecting and using race-related information in the course of conducting some programs, was defeated by voters in the special election.

The FPPC began investigating ACRC when it learned that the coalition was soliciting contributions for Proposition 54 and that these contributions were financing nearly the entire campaign behind the initiative, but that ACRC had not filed any reports disclosing the sources of the money. When efforts to resolve the matter out of court

failed, the FPPC filed the lawsuit about one month before the 2003 special election.

In court, the FPPC requested a preliminary injunction that would have required disclosure of the contributors prior to the election. However, the request for a preliminary injunction was denied by Superior Court Judge Thomas M. Cecil. The defendants moved to have the lawsuit dismissed, but that motion was also denied by Cecil. The defendants then appealed to the 3rd District Court of Appeal in a further effort to have the case dismissed, but their effort failed and the matter was returned to the Superior Court for trial. This prompted further discussion between the parties that ultimately led to the settlement signed May 18 by Judge Cecil.

In addition to the \$95,000 civil penalty, the settlement requires ACRC and Connerly to admit they violated campaign laws by failing to file reports disclosing the contributors, and to file the reports. According to those reports, now on file with the Secretary of State, out of the \$1.7 million dollars that ACRC received for the initiative, \$1.3 million came from just six contributors.

This case was handled as a civil lawsuit rather than as an administrative action. The civil lawsuit was authorized by the FPPC's commissioners, who also approved the terms of the settlement during an earlier closed-session discussion of pending litigation. The commissioners chose to handle the matter as a civil lawsuit in order to seek a preliminary injunction and to obtain a higher penalty. The penalty in an administrative action is limited to \$5,000 per violation, while the penalty in a civil lawsuit for campaign disclosure violations may range up to the amount not properly reported.

Senior Commission Counsel William L. Williams, Jr. and Chief Investigator Susan D. Straine handled the case for the FPPC.

The complaint and settlement documents are available on the litigation page of the FPPC web-site at:

<http://www.fppc.ca.gov/index.html?id=380>

FPPC
Toll-free Advice Line:
1-866-ASK-FPPC
(1-866-275-3772)

Lobbyist Ethics Deadline Is Fast Approaching

The legislature's ethics committees have announced the scheduling of an additional ethics course for lobbyists to be conducted in Sacramento on June 17, 2005.

This is the last opportunity — before the mandated June 30 Form 604 filing deadline — for any conditionally registered lobbyist to complete the required ethics course (Gov. Code section 86103).

Any lobbyist who has not completed the ethics course requirement for the 2005-2006 Legislative Session should attend this course.

LOBBYISTS WHO DO NOT COMPLETE THE REQUIRED ETHICS COURSE BY THE DEADLINE AND/OR FAIL TO CERTIFY THEIR ETHICS COMPLETION DATE BY FILING AN AMENDED FORM 604 WITH THE

SECRETARY OF STATE BY THE FILING DEADLINE ARE PROHIBITED FROM ACTING AS A LOBBYIST IN CALIFORNIA AND MAY BE SUBJECT TO CRIMINAL PENALTIES AND SUBSTANTIAL FINES.

Advance sign-up is required. Spaces at the ethics courses are filled in the order that sign-up forms with checks paying the \$25 course fee are received in the Senate Ethics Committee office. Since space is limited at the course site, it is recommended that you sign up early.

For sign-up forms contact the Senate Committee on Legislative Ethics at (916) 651-1507.

State Court of Appeal Rules that Ballot Measure Committee Limits Are Not in Effect Pending Appeal

A state appeals court issued a ruling on May 5 stating that the Fair Political Practices Commission regulation on state candidate-controlled ballot measure committees is currently subject to a Superior Court injunction. As a result, the commission is prohibited from administering and enforcing the limits while the commission's appeal of the injunction is pending.

Citizens to Save California, Assembly member Keith Richman, Governor Arnold Schwarzenegger, Schwarzenegger's California Recovery Team, Senator John Campbell, and the campaign committees Rescue California from Budget Deficits and Taxpayers for Responsible Pensions, sued the FPPC in February, challenging a regulation adopted by the commission in June, 2004. That regulation applied the same contribution limits to state candidate-controlled ballot-measure committees that apply to the candidates themselves - currently \$22,300 for the Governor.

Sacramento Superior Court Judge Shelleyanne Chang ruled in favor of the Citizens to Save California on March 25, 2005, and issued a preliminary injunction against the regulation on April 18, 2005.

On April 19, the Fair Political Practices Commission appealed the Superior Court decision. In the notice of appeal filed in *Citizens v. FPPC*, the commission noted that the appeal stayed the superior court's order and therefore the regulation remained in full force and effect pending the outcome of the appeal.

On May 2, Judge Chang issued a new ruling stating that the preliminary injunction against enforcement of the regulation remains in effect notwithstanding the appeal. The FPPC on May 3rd filed a writ petition in the Third District Court of Appeal requesting the court confirm that the preliminary injunction was stayed. It was that request that was denied in the May 5 ruling.



The Clerks' Corner

By Kevin S. Moen
FPPC Political Reform Consultant

Refresher for Upcoming Local Elections (Forms 501 & 410)

State law requires candidates to file a Form 501, Statement of Intention, with the city clerk (for city candidates) or county clerk (for county candidates) before raising or spending any money to run for office. A Form 501 is also required for officeholders seeking reelection. Generally, this is the first form a local filing officer will receive to indicate who is seeking a local office. Form 501s should be logged and will be your guide to determine who will be filing future campaign statements.

Under state law, there is no "black out" period during which candidates may not start raising or spending money once they have filed this form; they are not required to wait until the nomination period is open. For example, if individuals want to start campaigning for an election to local office in 2006, they may file the Form 501 now.

Most candidates will receive contributions over \$1,000 and will be required to form a campaign committee. The Form 410, Statement of Organization, establishes the committee. The original Form 410 is filed with the Secretary of State's office and a copy with the local filing officer. As a filing officer, you should check your logs to ensure that for every Form 410 established as a candidate election committee there is also a Form 501 on file.

If a local candidate is running for reelection, a different bank account or committee is not required, but an amended Form 410 must be filed to reflect any information that has changed, including the date of the new election.

Campaign Disclosure Manual 2 should be provided to each candidate. Please check your printed copies to ensure that you have the recent edition published in May 2005. Manuals and campaign forms may be found by going to www.fppc.ca.gov, then clicking on "Forms."

FPPC staff is eager to provide a training seminar for candidates and treasurers, as long as the local agency can pay travel expenses and at least 25 will be in attendance. Please contact our office for information.

Election Filing Schedules

Filing schedules for 2005 and 2006 are on the Commission's website. You may locate them by going to <http://www.fppc.ca.gov>, clicking onto "Candidates and Committees," then clicking onto "Filing Deadlines," then choosing the year in which you are interested. The filing schedules are organized by the type of filer. The following three schedules are frequently used by a city filing officer:

- ◆ "Candidates for Local Office," "Committees Primarily Formed to Support/Oppose Local Candidates," "Committees Primarily Formed to Support/Oppose Local Measures"
- ◆ "City General Purpose Committees & City Major Donor and Independent Expenditure Committees"
- ◆ "Local Officeholders/Candidates Not Listed on a Ballot"

If you need a filing schedule that is not already listed on the website, you may contact the Commission to request a filing schedule specifically for your election date. Simply

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provide the type of election and the date of the election. The process to provide a filing schedule usually takes just a few days. However, if you are requesting a filing schedule that combines the filing of a semi-annual and pre-election report, you must write (or fax) your request. This process requires that we prepare a formal advice letter. Please let us know of your election date and filing schedule requirements as soon as possible.

Reviewing Statements of Economic Interests

When reviewing the Form 700, Statement of Economic Interests, whether they are from a new employee or are annual statements, watch out for the following common errors:

- ◆ Statement is unsigned.
- ◆ On the Cover Page, Part 4, schedules are marked completed and attached, but, in fact, they are not attached.
- ◆ The precise location (street address or assessor's parcel number) of real property is not disclosed.
- ◆ Dates and fair market value of gifts are not disclosed. If gifts over \$340 (for reports covering 2004) are disclosed, contact the FPPC to determine if an enforcement referral should be made. (The gift limit for 2005-2006 is \$360.)

Most agencies require the annual Form 700 to be filed on or before April 1, 2005. Filing officers are encouraged to follow the FPPC's recommended notification guidelines for Statement of Economic Interests filing officers. The guidelines are posted on our website under the general category of Conflicts of Interest/Form 700/COI codes:

<http://www.fppc.ca.gov/index.html?id=6>

Revised Campaign Disclosure Manuals Now Available

The Fair Political Practices Commission recently approved revised disclosure manuals for candidates and committees. The following are now available in the "Forms" section of the FPPC website at www.fppc.ca.gov:

- ◆ Campaign Disclosure Manual 1 for State Candidates, Their Controlled Committees, and Primarily Formed Committees for State Candidates (May 2005)
- ◆ Campaign Disclosure Manual 2 for Local Candidates, Superior Court Judges, Their Controlled Committees, and Primarily Formed Committees for Local Candidates (May 2005)
- ◆ 2005 Campaign Manual Addendum to Supplement 1995/96 Campaign Disclosure Manuals for General Purpose Recipient Committees (Manual C), Ballot Measure Committees (Manual D), and Independent Expenditure and Major Donor Committees (Manual E)

Please provide the updated manuals to candidates and committees filing with you. Here is a direct link to the Forms and Manuals web page:

<http://www.fppc.ca.gov/index.html?id=234>



Filing Officers!
The FPPC's toll-free advice line
is also for you. Call

1-866-ASK-FPPC
(1-866-275-3772)

with your questions on forms and other
issues.

Lobbying Disclosure Information Manual

California Fair Political
Practices Commission

Toll-free advice line: 1 (866) ASK-FPPC
Web site: www.fppc.ca.gov

Draft June 2005

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Fair Political Practices Commission

Contents-1

Lobbying Manual, draft 6/2005

Draft of New FPPC Lobbying Disclosure Information Manual Available for Review and Comment

A draft of the new FPPC Lobbying Disclosure Manual has been made available for review on the Commission's website.

Changes to the Act and FPPC regulations have been incorporated in the draft and are highlighted. In addition, FPPC staff members have reformatted the manual, eliminated duplicative information on completing forms, and added more examples and frequently asked questions.

FPPC staff plan to present the manual to the Commission for approval at the July meeting.

An interested persons meeting to receive public comment has been scheduled for:

10:00 a.m., Tuesday, June 21, 2005
FPPC Hearing Room
8th Floor, 428 J Street
Sacramento, California

You can find the link to the complete draft Lobbying Disclosure Manual on our website at:

<http://www.fppc.ca.gov/IPmeetings/IP6-21-05.htm>

Please note that this is a large .pdf file (750K), and it may take substantial time to download on slower speed connections. If you are unable to access the manual on our website or have questions, please call Lynda Cassady or Carla Wardlow at (916) 322-5660 or toll free at (866) ASK FPPC.

Meeting Summaries

Summaries of actions at the Commission's regular monthly meetings are posted on the Commission's website at:

<http://www.fppc.ca.gov/index.html?id=63>

See the following article for a summary of enforcement actions.

Enforcement Summaries

May Commission Meeting

Major Donor – Streamlined Procedure

Failure to Timely File Major Donor Campaign Statements. Staff: Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following entity has entered into a stipulation for failure to file major donor campaign statements that were due during the calendar years of 2001, 2002 and 2004, in violation of Government Code section 84200:

- **In the Matter of Golden 1 Credit Union, FPPC No. 05-248.** Golden 1 Credit Union of Sacramento failed to timely file semi-annual campaign statements disclosing contributions totaling \$44,561.40 (3 counts). \$1,395.61 fine.

Late Contribution Reporting Violations - Streamlined Program

Failure to Timely Disclose Late Contributions – Proactive Program. Staff: Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following per-

sons and entities have entered into stipulations for failing to timely disclose late contributions in 2003 and 2004, in violation of Government Code section 84203:

- **In the Matter of Committee To Elect Ralph L. Franklin, FPPC No. 04-466.** Committee To Elect Ralph L. Franklin, an Inglewood committee, failed to timely disclose late contributions totaling \$36,000.00 in 2003 (10 counts). \$5,400 fine.
- **In the Matter of Daviselen Advertising, Inc., FPPC No. 05-118.** Daviselen Advertising, Inc. of Los Angeles failed to timely disclose a late contribution of \$10,000.00 in 2003 (1 count). \$1,500 fine.
- **In the Matter of Northwestern Mutual Life Insurance Company, FPPC No. 05-127.** Northwestern Mutual Life Insurance Company of Milwaukee, Wisconsin failed to timely disclose a late contribution of \$10,000.00 in 2004 (1 count). \$1,500 fine.
- **In the Matter of Morrison Homes, FPPC No. 05-128.** Morrison Homes of Folsom failed to timely disclose a late contribution of \$25,000.00 in 2004 (1 count). \$3,500 fine.
- **In the Matter of John Mourier Construction, Inc., FPPC No. 05-132.** John Mourier Construction, Inc. of Roseville failed to timely disclose a late contribution of \$25,000.00 in 2004 (1 count). \$3,500 fine.
- **In the Matter of 25th Ward Regular Democratic Organization, FPPC No. 05-120.** 25th Ward Regular Democratic Organization of Chicago, Illinois failed to timely disclose a late contribution of \$10,000.00 in 2003 (1 count). \$1,500 fine.

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April Commission Meeting

Campaign Reporting Violations (Default Decision)

In the Matter of Yes on Measure G, Committee for Measure B: Measure B for Berryessa, and Lawrence S. Nichols, FPPC No. 98/597.

Staff: Senior Commission Counsel Deanne Canar. Respondent Yes on Measure G and Respondent Committee for Measure B: Measure B for Berryessa were committees primarily formed to support a bond measure in the Berryessa Union School District in Santa Clara County. Respondent Lawrence S. Nichols, also known as Larry Nichols, was the treasurer for both committees. Respondents Yes on Measure G and Nichols failed to itemize contributions in campaign statements, in violation of Government Code section 84211, subdivision (f) (3 counts); failed to file, or timely file, semi-annual campaign statements, in violation of Government Code section 84200, subdivision (a) (10 counts); and failed to report sub-vendor information in a campaign statement, in violation of Government Code sections 84211, subdivision (k) and 84303 (1 count). Respondents Committee for Measure B: Measure B for Berryessa, and Nichols failed to timely file pre-election campaign statements, in violation of Government Code section 84200.8 (2 counts); failed to itemize contributions in campaign statements, in violation of Government Code section 84211, subdivision (f) (3 counts); and failed to file, or timely file, semi-annual campaign statements, in violation of Government Code section 84200, subdivision (a) (7 counts). \$26,000 fine.

Campaign Reporting Violations

In the Matter of Nathaniel Bates, Richmond City Councilman Nat Bates, Nat Bates for Mayor, and Larry Bates, FPPC No. 99/726.

Staff: Senior Commission Counsel William L.

Williams, Jr. and Investigator II Charlie Bilyeu. Respondent Nathaniel Bates was a successful candidate for the Richmond City Council in the 1999 general election. Respondent Richmond City Councilman Nat Bates was the controlled committee of Respondent Nathaniel Bates in that 1999 election. Respondent Nathaniel Bates was an unsuccessful candidate for Mayor of the City of Richmond in the 2001 general election. Respondent Nat Bates for Mayor was the controlled committee of Respondent Nathaniel Bates in that 2001 election. Respondent Larry Bates was the treasurer of both committees. Respondents Nathaniel Bates, Richmond City Councilman Nat Bates, and Larry Bates failed to disclose the receipt of a late contribution on a properly filed late contribution report, in violation of section 84203 of the Government Code (1 count), and failed to properly disclose the receipt of contributions in a pre-election statement in violation of section 84211, subdivision (f) of the Government Code (1 count). Respondents Nathaniel Bates, Nat Bates for Mayor, and Larry Bates failed to properly disclose the receipt of contributions in a pre-election statement in violation of Government Code section 84211, subdivision (f) (1 count). \$7,000 fine.

In the Matter of Black Men & Women and George Livingston, FPPC No. 99/726. Staff: Senior Commission Counsel William L. Williams, Jr. and Investigator II Charlie Bilyeu. Respondent Black Men & Women was a city general purpose committee in Richmond. Respondent George Livingston was the treasurer of the committee. Respondents failed to disclose the making of a late contribution on a properly filed late contribution report, in violation of section 84203 of the Government Code (1 count), and failed to properly disclose the making of contributions in a pre-election statement, in violation of Government Code section 84211, subdivision (k) (2 counts). \$7,000 fine.

In the Matter of Jack Scott, Jack Scott for State Senate Committee, and Jonathan Fuhrman, FPPC No. 02/507. Staff: Senior Commission Counsel Julia Bilaver and Accounting Specialist Bill Marland. Respondent

(Continued on page 11)

(Continued from page 10)

Jack Scott was a successful candidate for the California State Senate, 21st District, in the November 7, 2000 statewide general election. Respondent Jack Scott for State Senate Committee is the controlled committee of Respondent Jack Scott, and Respondent Jonathan Fuhrman is the treasurer of Respondent Committee. Respondents failed to properly disclose 18 late contributions in paper late contribution reports, in violation of Government Code section 84203, subdivision (a) (18 counts); and failed to properly disclose seven late contributions in electronic late contribution reports, in violation of Government Code section 84605, subdivision (a) (7 counts). \$39,000 fine.

In the Matter of George E. Williams, Williams for Supervisor, and Gloria F. Cavenee, FPPC No. 03/027. Staff: Senior Commission Counsel Julia Bilaver and Investigator II Charlie Bilyeu. Respondent George Williams was an unsuccessful candidate for the Placer County Board of Supervisors in the March 7, 2000 primary election. Respondent Williams for Supervisor was the controlled committee of Respondent Williams, and Respondent Gloria Cavenee was the treasurer of Respondent Committee. Respondents failed to report required information regarding contributions of \$100 or more on two pre-election campaign statements, in violation of Government Code section 84211, subdivision (f) (2 counts). \$2,000 fine.

Conflicts of Interest Violations and Campaign Reporting Violations

In the Matter of Andy Quach, Andy Quach for City Council, and Diemmy N. Tran, FPPC No. 01/205. Staff: Senior Commission Counsel Deanne Canar and Investigator III Sandra Buckner. Respondent Andy Quach was a member of the Planning Commission for the City of Westminster, and a candidate for the Westminster City Council. Respondent Quach failed to disclose campaign contributions aggregating more than \$250 from a party to a proceeding that was pending before the Westminster Planning Commission, and failed to disqualify himself from making and participating in decisions involving

that party, in violation of Government Code section 84308, subdivision (c) (2 counts). Respondent Andy Quach for City Council was the committee established by Respondent Andy Quach to support his candidacy for city council. Respondent Diemmy N. Tran was the treasurer of Respondent Committee until the election. Respondents Andy Quach, Andy Quach for City Council, and Diemmy N. Tran received cash contributions, in violation of Government Code section 84300, subdivision (a) (1 count); failed to disclose a late contribution, in violation of Government Code section 84203 (1 count); failed to disclose required contributor information, in violation of Government Code section 84211, subdivision (f) (2 counts); and failed to maintain campaign records, in violation of Government Code section 84104 (3 counts). \$11,500 fine.

Statement of Economic Interests Non-filing (Default Decision)

In the Matter of Kevin Dunigan, FPPC No. 04/110. Staff: Senior Commission Counsel Julia Bilaver. Respondent Kevin Dunigan, a member of the Inglewood Planning Commission, failed to timely file a 2003 annual statement of economic interests, in violation of Government Code section 87203 (1 count). \$3,000 fine.

Late Contribution Reporting Violations -- Streamlined Program

Failure to Timely Disclose Late Contributions -- Proactive Program. Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failure to file late contribution reports in 2003 and 2004, in violation of Government Code Section 84203:

- **In the Matter of GenCorp, Inc., FPPC No. 04/723.** GenCorp, Inc. of Sacramento failed to timely disclose late contributions totaling \$14,000.00 in 2004 (3 counts). \$2,100 fine.
- **In the Matter of Anaflor Q. Smith, FPPC No. 05/121.** Anaflor Q. Smith of Woodside failed to timely disclose a late contribution of

(Continued on page 12)

(Continued from page 11)

\$10,000.00 in 2003 (1 count). \$1,500 fine.

- **In the Matter of Turner Construction Company, FPPC No. 05/123.** Turner Construction Company of Oakland failed to timely disclose a late contribution of \$10,000.00 in 2004 (1 count). \$1,500 fine.
- **In the Matter of 3D/International, FPPC No. 05/125.** 3D/International of Houston, Texas failed to timely disclose late contributions totaling \$10,000.00 in 2004 (2 counts). \$1,500 fine.
- **In the Matter of Outback Steakhouse, Inc., FPPC No. 05/126.** Outback Steakhouse, Inc. of Tampa, Florida failed to timely disclose a late contribution of \$10,000.00 in 2004 (1 count). \$1,500 fine.
- **In the Matter of DMB Ladera, LLC, FPPC No. 05/129.** DMB Ladera, LLC of San Juan Capistrano failed to timely disclose a late contribution of \$10,000.00 in 2004 (1 count). \$1,500 fine.
- **In the Matter of Southland Motor Car Dealers Association, FPPC No. 05/130.** Southland Motor Car Dealers Association of Long Beach failed to timely disclose a late contribution of \$25,000.00 in 2004 (1 count). \$3,500 fine.
- **In the Matter of V. E Mailing Company, FPPC No. 05/133.** V. E Mailing Company of Washington, D.C. failed to timely disclose a late contribution of \$11,898.88 in 2004 (1 count). \$1,784.83 fine.

Major Donor Reporting Violations -- Streamlined Procedure

Failure to Timely File Major Donor Campaign Statements. Staff: Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to file major donor campaign statements that were

due during the calendar years of 2002 and 2003, in violation of Government Code section 84200:

- **In the Matter of Colich & Sons, L.P., FPPC No. 03/572.** Colich & Sons, L.P. of Gardena failed to timely file a semi-annual campaign statement disclosing contributions totaling \$12,450.00 in 2002 (1 count). \$800 fine.
- **In the Matter of Comcast Corporation and Affiliated Entities, FPPC No. 05/187.** Comcast Corporation and Affiliated Entities of Philadelphia, Pennsylvania failed to timely file semi-annual campaign statements disclosing contributions totaling \$49,250.00 in 2003 (2 counts). \$800 fine.

March Commission Meeting

Campaign Reporting Violations

In the Matter of David E. Gunn and Friends of David Gunn, FPPC No. 02/630. Staff: Senior Commission Counsel William L. Williams, Jr. and Investigator II Charlie Bilyeu. Respondents David E. Gunn and Friends of David Gunn violated the Political Reform Act by failing to maintain records of employer and occupation information for contributors and failing to disclose employer and occupation information on campaign statements, in violation of Government Code sections 84104 and 84211 (2 counts). \$2,000 fine.

In the Matter of No Tax Money for Political Campaigns, No on Prop. O and James Sutton, FPPC No. 01/151. Staff: Senior Commission Counsel William L. Williams, Jr. and Investigator II Charlie Bilyeu. Respondents No Tax Money for Political Campaigns, No on Prop. O and James Sutton violated the Political Reform Act by failing to timely file a pre-election cam-

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paign statement, in violation of Government Code section 84200.5, subdivision (b) (1 count). \$1,500 fine.

In the Matter of Douglas Sanders and Committee to Elect Douglas Sanders, FPPC No. 01/640. Staff: Senior Commission Counsel Melodee A. Mathay and Investigator II Charlie Bilyeu. Respondent Douglas Sanders was a successful candidate for Treasurer of the City of Compton in the April 17, 2001, city election. Respondent Committee to Elect Douglas Sanders was Sanders' controlled campaign committee, and Sanders served as the treasurer of that committee. In connection with the April 17, 2001 election, Respondents failed to timely file a second pre-election campaign statement, in violation of Government Code section 84200.5, subdivision (c) (1 count). \$2,500 fine.

In the Matter of Foothill-De Anza Community Colleges Foundation, FPPC No. 04/593. Staff: Senior Commission Counsel Deanne Canar and Supervising Investigator Dennis Pellón. Respondent Foothill-De Anza Community Colleges Foundation is a tax-exempt public benefit corporation, established to raise and invest funds to support Foothill and De Anza colleges, which are part of the Foothill-De Anza Community College District. Respondent failed to disclose a late contribution in a properly filed late contribution report, in violation of Government Code section 84203, subdivision (a) (1 count); and failed to file a semi-annual campaign statement, in violation of Government Code section 84200, subdivision (b) (1 count). \$4,000 fine.

In the Matter of Citizens for Foothill-De Anza, a Committee to Support Measure E, and Robert A. Grimm, FPPC No. 04/595. Staff: Senior Commission Counsel Deanne Canar and Supervising Investigator Dennis Pellón. Respondent Citizens for Foothill-De Anza, a Committee to Support Measure E, was a committee primarily formed to support a bond measure placed on the November 1999 Santa Clara County ballot by the Foothill-De Anza Community College District. Robert A. Grimm was the treasurer of Respondent Committee. Respon-

dents failed to send major donor notification letters to contributors of \$5,000 or more, in violation of Government Code section 84105 (5 counts); failed to disclose the receipt, repayment, and forgiveness of a loan, in violation of Government Code sections 84211, subdivision (f), and 84216 (3 counts); and failed to disclose non-monetary contributions, in violation of Government Code section 84211, subdivision (f) (1 count). \$12,000 fine.

In the Matter of C. Terry Brown, Charlene A. Brown, and Atlas Hotels, Inc., FPPC No. 03/514. Staff: Commission Counsel Elizabeth K. Conti and Political Reform Consultant II Maryann Kvasager. Respondent C. Terry Brown and Charlene A. Brown are principles of Respondent Atlas Hotels, Inc., a Delaware corporation that owns the Town and Country Resort in San Diego. Respondents failed to timely disclose a late contribution in a properly filed paper late contribution report, in violation of Government Code section 84203, subdivision (a) (1 count); and failed to timely disclose a late contribution in a properly filed electronic late contribution report, in violation of Government Code section 84605, subdivision (a) (1 count). \$15,000 fine.

In the Matter of Beneto, Inc. and Steve Beneto, Jr., FPPC No. 02/1020. Staff: Elizabeth K. Conti and Political Reform Consultant II Mary Ann Kvasager. Respondent Steve Beneto, Jr. is the president of Respondent Beneto, Inc., a petroleum products transportation company based in West Sacramento. Respondents failed to timely disclose a late contribution in a properly filed paper late contribution report, in violation of Government Code section 84203, subdivision (a) (1 count); failed to timely disclose a late contribution in a properly filed electronic late contribution report, in violation of Government Code section 84605, subdivision (a) (1 count); failed to timely file a paper semi-annual campaign statement, in violation of Government Code section 84200, subdivision (b) (1 count); and failed to timely file an electronic semi-annual campaign statement, in violation of Government Code section 84605, subdivision (a) (1 count). \$12,500 fine.

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In the Matter of William A. Robinson, FPPC No. 04/164. Staff: Commission Counsel Elizabeth K. Conti and Political Reform Consultant II Mary Ann Kvasager. Respondent William A. Robinson, a resident of Los Angeles, failed to timely disclose a late contribution in a properly filed late contribution report, in violation of Government Code section 84203, subdivision (a) (1 count); and failed to timely disclose a late contribution in a properly filed electronic late contribution report, in violation of Government Code section 84605, subdivision (a) (1 count). \$10,000 fine.

In the Matter of Linda Davis and Linda Davis for State Assembly, FPPC No. 00/163. Staff: Senior Commission Counsel Julia Bivlaver. Respondent Linda Davis was an unsuccessful candidate for the 5th Assembly District of the California State Assembly in the Nov. 3, 1998, municipal general election. Respondent Linda Davis for State Assembly was Davis' controlled committee. Respondents failed to maintain detailed accounts, records, bills and receipts that were necessary to prepare a second pre-election campaign statement, in violation of Government Code section 84104 (1 count). \$1,000 fine.

In the Matter of Robert C. Kagle, FPPC No. 04/144. Staff: Commission Counsel Elizabeth K. Conti and Political Reform Consultant II Mary Ann Kvasager. Respondent Robert C. Kagle, a private investor who resides in San Mateo County, failed to disclose a late contribution on a properly filed late contribution report, in violation of Government Code section 84203, subdivision (a) (1 count). \$4,240 fine.

Statements of Economic Interest

In the Matter of Wallace Bill Moore, FPPC No. 01/628. Staff: Senior Commission Counsel Melodee A. Mathay and Investigator III Dan Schek. Respondent Wallace Bill Moore, of Santa Rosa, is a member of the Diversion Evaluation Committee for the Dental Board of California. As a committee member, Respon-

dent failed to timely file his assuming-office statement of economic interests, in violation of Government Code section 87300 (1 count), and failed to timely file two annual statements of economic interests, in violation of Government Code section 87300 (2 counts). \$3,000 fine.

Sender Identification Violation

In the Matter of Newsom for Mayor, Gavin Newsom, and Laurence Pelosi, FPPC No. 03/844. Staff: Senior Commission Counsel William L. Williams, Jr. and Investigator III Dan Schek. Respondent Gavin Newsom was a successful candidate for Mayor of the City and County of San Francisco. Newsom for Mayor was Newsom's controlled committee. Respondent Laurence Pelosi was the committee treasurer. Respondents sent a mass mailing that did not include proper sender identification, in violation of Government Code section 84305 (1 count). \$2,500 fine.

Major Donor - Streamlined Procedure

Failure to Timely File Major Donor Campaign Statements. Staff: Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to file major donor campaign statements that were due during the calendar years of 2003 and 2004, in violation of Government Code Section 84200:

- **In the Matter of Cardinal Capital LLC, FPPC No. 04/805.** Cardinal Capital LLC of Hillsborough failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000 in 2003 (1 count). \$400 fine.
- **In the Matter of La Posta Band of Mission Indians, FPPC No. 04/808.** La Posta Band of Mission Indians of Boulevard failed to timely file a semi-annual campaign statement disclosing contributions totaling \$55,000 in 2003 (1 count). \$400 fine.
- **In the Matter of Devito Family Trust, FPPC No. 04/812.** Devito Family Trust of Los Ange-

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les failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000 in 2003 (1 count). \$400 fine.

- **In the Matter of Global Marketing & Technical Services, FPPC No. 04/814.** Global Marketing & Technical Services of Fresno failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000 in 2003 (1 count). \$400 fine.
- **In the Matter of St. Ann Hospice Home Care, Inc., FPPC No. 04/816.** St. Ann Hospice Home Care, Inc. of Glendale failed to timely file a semi-annual campaign statement disclosing contributions totaling \$20,000 in 2003 (1 count). \$400 fine.
- **In the Matter of Asian Pacific American Legal Center of Southern California, FPPC No. 05/077.** Asian Pacific American Legal Center of Southern California, located in Los Angeles, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000 in 2003 (1 count). \$400 fine.
- **In the Matter of Best, Best & Krieger, LLP, FPPC No. 05/106.** Best, Best & Krieger, LLP of Riverside failed to timely file a semi-annual campaign statement disclosing contributions totaling \$57,223 in 2004 (1 count). \$972.23 fine.

Late Contribution – Streamlined Program

Failure to Timely File Late Contribution Reports – Proactive Program. Staff: Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to file late contribution reports in 2003, in violation of Government Code Section 84203:

- **In the Matter of Katherine Alden, FPPC No. 04/761.** Katherine Alden of Menlo Park

failed to timely disclose a late contribution totaling \$13,000 (1 count). \$1,950 fine.

- **In the Matter of Hispanic Democratic Organization, FPPC No. 04/764.** Hispanic Democratic Organization of Chicago, Illinois failed to timely disclose a late contribution totaling \$16,200 (1 count). \$2,430 fine.
- **In the Matter of Gary Dillabough, FPPC No. 04/770.** Gary Dillabough of Los Altos failed to timely disclose a late contribution totaling \$10,000 (1 count). \$1,500 fine.
- **In the Matter of Intuit Company, FPPC No. 04/773.** Intuit Company of San Diego failed to timely disclose a late contribution totaling \$10,000 (1 count). \$1,500 fine.
- **In the Matter of Desert Valley Medical Group, FPPC No. 04/776.** Desert Valley Medical Group of Victorville failed to timely disclose late contributions totaling \$27,000 (2 counts). \$4,050 fine.

Statement of Economic Interests – Streamlined Program

Failure to Timely File Statements of Economic Interests. Staff: Political Reform Consultant Linda Denly. The following persons have entered into stipulations for failing to timely file statements of economic interests, in violation of Government Code sections 87202, 87203, 87204 or 87300:

- **In the Matter of Thomas Kravis, FPPC No. 02/935.** Thomas Kravis, a board member with the Department of Consumer Affairs' Board of Registered Nursing, failed to timely file the 2001 annual statement of economic interests, in violation of Government Code section 87300 (1 count). \$250 fine.
- **In the Matter of J.P. Patel, FPPC No. 04/636.** J.P. Patel, a commissioner for the California Travel & Tourism Commission, failed to timely file an assuming office statement of economic interests, in violation of

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Government Code section 87300 (1 count).
\$100 fine.

- **In the Matter of Bob Barnhouse, FPPC No. 05/081.** Bob Barnhouse, a commissioner for the California Strawberry Commission, failed to timely file an assuming office statement of economic interests, in violation of Government Code section 87300 (1 count). \$100 fine.
- **In the Matter of Jay Howell, FPPC No. 03/057.** Jay Howell, a member for the Sonoma County Community Development Commission, Project Area Committee, failed to timely file the 2001 and 2003 annual statements of economic interests, in violation of Government Code section 87203 (2 counts). \$500 fine.
- **In the Matter of Kenneth K. Nishi, FPPC No. 04/539.** Kenneth K. Nishi, a director for the Monterey County Marina Coast Water District, failed to timely file the 2001, 2002 and 2003 annual statements of economic interests, in violation of Government Code section 87300 (3 counts). \$300 fine.



FPPC

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1-866-ASK-FPPC
(1-866-275-3772)**



Legislative Update

The following information on legislation is condensed from the Legislative Report prepared for the June 15, 2005, Commission meeting. For the complete report, please see the meeting agenda on our website at:

<http://www.fppc.ca.gov/index.html?id=329>

Updates on bills can be found on the FPPC's website at :

<http://www.fppc.ca.gov/index.html?id=365>

AB 709 (Wolk) would impose a \$5,600 limit on contributions to ballot measure committees controlled by elective state office candidates. Primarily formed ballot measure committees would be subject to the post-election fundraising restrictions in the Act. The bill would aggregate contributions to multiple ballot measure committees in support of, or in opposition to, the same ballot measure that are controlled by the same state candidate.

AB 938 (Umberg) would require electronic filers to also file a report online or electronically disclosing expenditures totaling \$10,000 or more to support or oppose the qualification or passage of a ballot measure, and disclosing other specified in-

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formation, within 10 business days of making the expenditure. The bill would require that this report also be filed in the places where the committee would be required to file campaign statements if it were formed or existing primarily to support or oppose the measure for or against which it is making the expenditure.

AB 1558 (Wolk) Commission-sponsored Govt. Code sec. 1090 pilot project to issue opinions to public officials after consultation with the AG's office and applicable local prosecutor.

AB 16 (Huff) would prohibit the Governor or a member of the Legislature from accepting any campaign contributions between the date of the May budget revision and the date of the enactment of the budget bill for the upcoming fiscal year.

AB 40 (Wolk) would prohibit lobbyists who contract with an elected state officer from lobbying that officer, his or her staff or the staff of any committee the member chairs, and requires notification to the Secretary of State by lobbyists who enter into a contractual agreement with an elected state officer. AB 40 also requires that any payment conditioned on the outcome of an election be disclosed in pre-election reports. Failed in Assembly Elections Committee. Position: Oppose unless amended.

AB 347 (Huff) would make a violation of the Act a misdemeanor or felony, punishable by imprisonment in a county jail for no more than one year, or by 16 months, 2 years, or 3 years in the state prison. This bill contains other related provisions and other existing laws.

AB 513 (Richman) would expand the definition of administrative action to include the selection of an underwriter for state or local bond business.

AB 583 (Hancock) would enact the California Clean Money and Fair Elections Act of 2005, which would authorize eligible candidates, as defined, to obtain public funds according to specified procedures and requirements, provided that certain thresholds are attained. The bill would impose responsibility for the administration of the provisions of the bill on the Fair Political Practices Commission. The bill would appropriate \$500,000 each fiscal year from the fund created by the bill to the Fair Political Practices Commission for the purpose of administration of the act, as specified.

AB 739 (Nation) would lower from \$50,000 to \$10,000 the reporting threshold applicable to issue advocacy communications that clearly identify a candidate for elective state office made within 45 days of an election. The bill also would lower the threshold for donor reporting from \$5,000 to \$1,000.

AB 891 (DeVore) would amend the Act's slate mailer provisions to (1) make inclusion in a slate mailer sent by a recipient committee not at the candidate's behest a contribution to a candidate who does not pay equal consideration for the mailer; (2) require a slate mailer organization to notify the candidate of the value of the contribution; and (3) require the Commission adopt regulations providing a method for valuing slate mailer communications.

AB 1391 (Leno) would define a state general purpose committee as a committee that is not a county or city general purpose committee, or a committee that makes expenditures to support or oppose candidates or measures voted on in a state election, or in more than one county, including contributions to state general purpose committees, which total more than 50% of the contributions and independent expenditures made by the committee.

AB 1755 (Committee Commission-sponsored omnibus bill). Commission-sponsored bill to 1) delete reporting provisions relating to the now-obsolete March state primary, 2) clarify two provisions related to electronic reporting, 3) extend

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from 30- to 45-days the period during which a candidate may leave one office and assume another without having to file a new SEI, and 4) requires service to the Commission of a copy of a civil suit filed under the Act before relief may be granted.

SB 8 (Soto) would extend the one-year post-governmental employment restrictions currently applicable to state public officials to local elected officials, county chief administrative officers, city managers or administrators, and special district general managers or chief administrators.

SB 11 (Bowen) would prohibit a candidate for elective state or local office from accepting any contributions from a manufacturer or vendor of voting equipment or systems. This bill also would amend the Elections Code to declare that the Secretary of State cannot serve as an officer of a political party or partisan organization, or support or oppose any candidate or ballot measure.

SB 25 (Ackerman) would create a presumption that a contribution received in response to a written solicitation from an elective state office candidate or his or her committee is received in response to that solicitation, for that candidate or committee, or for the term of office specified in the solicitation. The bill also would repeal two sections related to the now obsolete March state primary election.

SB 36 (Florez). The Political Reform Act of 1974, as amended by Proposition 34 of the November 7, 2000, statewide general election, requires a person who pays or promises to pay \$50,000 or more for an issue advocacy communication, which clearly identifies a candidate for elective state office but does not expressly

advocate the election or defeat of the candidate, made within 45 days of an election, to file a specified disclosure report online or electronically with the Secretary of State within 48 hours of making or promising the payment. This bill would require a similar filing by a person who pays or promises to pay \$50,000 for a communication to 10,000 voters within the jurisdiction that the candidate is seeking office.

SB 54 (Ackerman). The measure was substantially similar to, and rendered obsolete by, SB 25.

SB 145 (Murray) would authorize an elected state officer to accept contributions after the date of the election to the office presently held for the purpose of paying expenses associated with holding office or for any other purpose authorized by the Political Reform Act of 1974, subject to certain limitations. The bill would set limits on the amount of contributions that may be made to an elected state officer in a calendar year and on the aggregate amount of contributions that a state officer may receive in a calendar year.

SB 721 (Chesbro). Existing law provides that any elector may initiate a challenge to a copy for the ballot pamphlet for statewide elections by showing that the copy is false, misleading, or inconsistent with specified statutory law, and that the issuance of a writ of mandate to amend or delete copy will not substantially interfere with the printing and distribution of the ballot pamphlet. This bill would codify the requirements of existing law that, in ruling on a challenge to a ballot pamphlet copy, a court shall indulge all legitimate presumptions in favor of the propriety of the copy, and find the copy sufficient in cases where reasonable minds could differ as to the sufficiency of the copy

SB 784 (Committee) would extend the reporting threshold and deadline for payments for legislative, governmental, or charitable purposes made "at the behest of" an elected official from \$5,000 to \$7,000 and from 30 days to 90 days, respectively. It also specifies that

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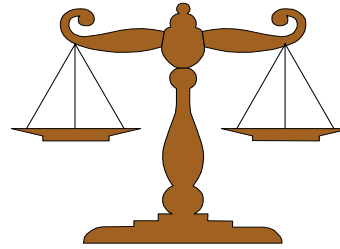
such a payment made in response to a press release, interview, or other media-related communication from an elected official is not required to be reported. In addition, it adds that an elected official is required to report such a payment only if he or she knows, or has reason to know, that a payment was made at his or her behest.

SB 929 (Kehoe). As proposed to be amended, this bill would expand the definitions of lobbyist to include those in direct communication with California Coastal Commissioners for the purpose of influencing quasi-judicial decisions.

SCA 13 (Ortiz). The California Stem Cell Research and Cures Act (Proposition 71) established the California Institute for Regenerative Sciences and the Independent Citizens Oversight Committee to perform various oversight functions with regard to the Institute. Members of the ICOC are required to file statements of economic interest with the FPPC. This constitutional amendment would require that the president and each employee of the Institute, and any member of any working or advisory group appointed to assist the institute or its governing body also disclose various economic interests and file with the FPPC.

SB 18 (Ortiz). This bill would declare that it is the intent of the Legislature that the Independent Citizen's Oversight Committee define which positions would be subject to the Political Reform Act and that the requirements for the reporting of economic interest be commensurate with those required of state agency appointees.

ACR 1 (McLeod) would urge the Independent Citizen's Oversight Committee established pursuant to Proposition 71 approved by the voters at the November 2, 2004, general election, to adopt robust conflict-of-interest standards for itself and for the members of its working groups, to comply with standards set forth in provisions of law relating to open meetings of public agencies and public records, and to report to the Legislature by April 1, 2005.



Litigation Report

Here is a report on pending litigation prepared for the Commission's June 15, 2005, meeting:

California ProLife Council, Inc. v. Karen Getman et al.

This action challenged the Act's reporting requirements for express ballot measure advocacy. In October 2000 the Federal District Court for the Eastern District of California dismissed certain counts and later granted the FPPC's motion for summary judgment on the remaining counts. Plaintiff appealed, and the Ninth Circuit Court of Appeal affirmed that the challenged statutes and regulations were not unconstitutionally vague, and that California may regulate ballot measure advocacy upon demonstrating a sufficient state interest in so doing. However, the Ninth Circuit remanded the matter back to the district court to determine whether California could in fact establish an interest sufficient to support its committee disclosure rules, and that those disclosure rules are properly tailored to that interest. On February 22, 2005, the court granted defendants' motion for summary judgment on these questions. Plaintiff has again appealed, and the parties anticipate that the appeal will be heard and decided late this year.

FPPC v. Agua Caliente Band of Cahuilla Indians, et al.

The FPPC alleges in this action that the Agua Caliente Band of Cahuilla Indians contributed more than \$7.5 million to California

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candidates and ballot measure campaigns between January 1 and December 31, 1998, but did not timely file major donor reports disclosing those contributions, and likewise failed to disclose more than \$1 million in late contributions made between July 1, 1998, and June 30, 2002. The FPPC later amended the complaint to add a cause of action alleging that the tribe failed to disclose a \$125,000 contribution to the Proposition 51 campaign on the November 5, 2002, ballot. Defendants responded to the lawsuit by filing a motion to quash service, alleging that they could not be civilly prosecuted because of tribal sovereign immunity. On February 27, 2003, the Honorable Loren McMaster of the Sacramento County Superior Court ruled in the FPPC's favor. Defendants filed a petition for writ of mandate in the Third District Court of Appeal, challenging the decision of the trial court. The petition was summarily denied on April 24, 2003, whereupon defendants filed a petition for review in the California Supreme Court. On July 23, 2003, the Supreme Court granted review and transferred the case back to the Court of Appeal. On March 3, 2004, the Court of Appeal affirmed the Superior Court's decision, concluding that "the constitutional right of the State to preserve its republican form of government trumps the common law doctrine of tribal immunity." On April 13, 2004, defendants filed a Petition for Review in the California Supreme Court. On June 23, 2004, the Supreme Court granted the Petition for Review. On September 23, 2004, the defendants filed an opening brief with the Supreme Court. On December 30, 2004, the FPPC filed its opposition brief. On April 1, 2005, defendants filed a closing brief. Amicus briefs have been filed by a number of interested parties, and an extension was granted to respond to the amicus to both the appellants and respondents until July 7, 2005.

FPPC v. Santa Rosa Indian Community of the Santa Rosa Rancheria

In this action the FPPC alleges that the Santa Rosa Indian Community of the Santa Rosa Rancheria failed to file major donor semi-annual campaign statements in the years 1998, 1999, and 2001, involving more than \$500,000 in political contributions to statewide candidates and propositions, and that defendants failed to disclose more than \$350,000 in late contributions made in October 1998. The complaint was originally filed on July 31, 2002, and was amended on October 7, 2002. On January 17, 2003, defendants filed a motion to quash service, based on its claim of tribal sovereign immunity. On May 13, 2003, the Honorable Joe S. Gray of the Sacramento County Superior Court entered an order in favor of defendants. On July 14, 2003, the FPPC appealed this decision to the Third District Court of Appeal, where the matter was scheduled for oral argument. The Attorney General filed an amicus brief in support of the FPPC's position. The court heard oral argument on October 19, 2004, and on October 27, 2004, issued a decision in favor of the Commission overturning the trial court's granting of defendant's motion to quash. The tribe filed a petition for review with California Supreme Court which was granted on January 12, 2005. However, any action on the case has been deferred pending the outcome of the Agua Caliente case.

FPPC v. American Civil Rights Coalition, et al.

In this action the FPPC alleged that the American Civil Rights Coalition ("ACRC") and its CEO Ward Connerly failed to file campaign statements reporting the source of almost \$2 million contributed to promote the passage of Proposition 54 on the October 7 ballot. On May 18, 2005, a stipulation for entry of judgment and a judgment against Ward Connerly and ACRC were signed by Judge Thomas M. Cecil in Department 54 of the Sacramento County Superior Court. Under the stipulated settlement, defendants are paying a total pen-

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alty of \$95,000. Concurrent with the filing of the stipulation and the judgment, defendants filed amended campaign statements disclosing the contributors to ACRC from January 1, 2002, through June 30, 2003.

California Republican Party, et al. v FPPC et al.

On October 12, 2004, the California Republican Party, the California Democratic Party, and the Orange County Republican Party filed a Complaint in the Federal District Court for injunctive and declaratory relief from two provisions of the Act, sections 84503 and 84506, which require a committee paying for ballot measure advertisements to identify their two highest contributors of \$50,000 or more. On October 20, 2004, plaintiffs amended their Complaint, and noticed a motion for Temporary Restraining Order to be heard on October 26, 2004. The FPPC filed its Opposition to this motion on October 22. The Attorney General's office represented the Commission at the hearing before the Honorable Frank C. Damrell, Jr. The next day, the Court issued a preliminary injunction enjoining the Commission from enforcing the provisions of the Act above against plaintiffs. Magistrate-Judge Peter Nowinski recently conducted two settlement conferences, on April 11 and May 2, 2005.

Citizens to Save California, et al. v. FPPC

On February 8, 2005, Citizens to Save California and Assembly Member Keith Richman filed a Complaint for injunctive and declaratory relief in Sacramento Superior Court challenging the Commission's adoption of regulation 18530.9 in June 2005, which imposed on candidate-controlled ballot measure committees the contribution limit applied to the controlling candidate. Plaintiffs claim that the regulation vio-

lates the First Amendment, and that the Commission lacked statutory authority to adopt the regulation. An additional group of plaintiffs led by Governor Arnold Schwarzenegger then intervened in the action. The court granted plaintiffs' motion for a preliminary injunction, barring FPPC enforcement of regulation 18530.9 pending final disposition of the lawsuit. The Commission filed a Notice of Appeal upon receiving the order, noting that the superior court's injunction was stayed upon the filing of the Notice. On April 25, the Superior Court heard arguments this automatic stay. The court determined that the preliminary injunction remained in effect, and a writ petition challenging this finding in the Court of Appeal was denied. On May 26, in a ruling on the Commission's demurrer to the complaints, Judge Chang found that further action by the Superior Court matter was stayed pending resolution of the Commission's appeal of the preliminary injunction.

FPPC v. Democratic National Committee, Non-federal-Corporate et al.

In a lawsuit filed in the Sacramento Superior Court on February 25, 2005, the FPPC alleges that a California campaign committee sponsored by the national Democratic Party committee, and the treasurers of that committee, failed to file a campaign statement disclosing \$1.2 million in contributions to the California Democratic Party. Defendants filed its answer to the complaint, and a cross-complaint against the FPPC seeking declaratory and injunctive relief. The cross-complaint alleges that Government Code section 83115.5 requires the FPPC to hold a probable cause conference prior to instituting a civil enforcement action against a prospective defendant. The cross-complaint also alleges that FPPC regulation 18361.8, which defendants interpret as eliminating the procedures for bringing a civil action, violates a respondent's right to due process. On May 5, 2005, the Commission filed a demurrer to the cross-complaint, which is now scheduled to be heard on June 23, 2005.

FPPC Advice Summaries

Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code section 83114 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance may be provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an "A," while informal assistance is identified by the letter "I." Letters are summarized by subject matter and month issued.

Campaign

Jennie Unger Eddy
Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP
Dated: April 5, 2005
File Number I-05-049

The contributions of a chamber of commerce and its affiliated small contributor committee to a state assembly candidate are aggregated for purposes of the contribution limits.

Jennifer Hosterman
City of Pleasanton
Dated: April 7, 2005
File Number A-05-044

Contributions collected by a local elected officer may be used to fund a trip to New York to speak before the United Nations delegation on the subject of the Nuclear Non-Proliferation Treaty if the purpose of the trip is directly related to a political, legislative, or governmental purpose.

Prasanna W. Rasiah
City of Berkeley
Dated: March 9, 2005
File Number I-04-089

This advice letter addresses how candidates subject to local campaign reporting rules can file their campaign reports while still complying with the Act.

Charlene Cruz
County of Los Angeles
Dated: March 25, 2005
File Number I-05-046

Although certain filers must provide the Registrar-Recorder of Los Angeles County with two copies of campaign statements, based on the literal reading of section 81009(f), the agency is only required to keep one of the copies.

Ana Ventura Phares
City of Watsonville
Dated: February 28, 2005
File Number A-05-024

Proposed donations made to a city to help defray costs associated with sending a city council member to a conference in San Juan, Puerto Rico, would be considered gifts to the council member. Since the donations were offered after the specific council member who will travel was identified, regulation 18944.2 does not apply. The official may receive the donations personally as gifts, if no more than \$360 is received from a single source, or into her campaign bank account. She may then make a payment from personal or campaign funds to the city for reimbursement of expenses associated with the trip.

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Jack L. White
City of Anaheim
Dated: February 2, 2005
File Number G-04-234

The Commission does not issue advice when a question does not present a question under current provisions of the Act.

Paul F. Walker
City of La Palma
Dated: January 13, 2005
File Number A-04-254

An elected officeholder, finishing his final term in office, who used personal funds for a mailing may later be reimbursed by a political action committee ("PAC") because there was no prior agreement between the officeholder and the PAC to make the reimbursement. The reimbursement will be a gift to the officeholder subject to gift restrictions.

Conflicts of Interest

Ralph Rubio
City of Seaside
Dated: April 5, 2005
File Number I-05-038

A mayor, who is also an employee of a labor union, asked for advice regarding a possible conflict of interest involving a vote on a development project involving an out of state company and the city redevelopment agency. (The city council acts as the board of directors of the redevelopment agency.) Requestor is advised that he may participate in decisions regarding the project at the present time, as long as there is no reasonably foreseeable material financial affect on his economic interest.

Timothy P. Hayes
McDonough Holland & Allen PC
Dated: April 7, 2005
File Number I-05-035

A councilman owns a business of which one location is in the jurisdiction of his city. For purposes of the public generally exception he is not

allowed to count customers and revenues from outside the jurisdiction.

Michael Faulconer
City of Ventura
Dated: April 8, 2005
File Number I-05-042

A member of a city's planning commission and its design review committee who is also an architect and business owner in the city is advised that he may not participate in decisions regarding land use revisions in the general plan and downtown specific plan if it is reasonably foreseeable that decisions will have a material financial effect on his economic interests. He is also advised he may not meet with city staff regarding projects he is designing and he must leave the room if he is at a public meeting of the planning commission and he has a conflict of interest.

Leslie E. Murad, II
City of Redlands
Dated: April 11, 2005
File Number A-05-016

A city council member may not participate in decisions regarding the recommendations of a citizen's advisory committee when presented to the city council for consideration when the city council member has real property interests located within the study area that will be directly affected by the decisions. The city council member also may not speak as a member of the public on this issue because he jointly owns property with individuals who are not his immediate family. The public generally exception does not apply to the official because he owns multiple properties.

Deborah Dahl Shanks
Contra Costa Community College District
Dated: April 11, 2005
File Number I-05-056

A community college teacher wishes to run for a local community college board of trustee's position. If she were elected she would not have a conflict of interest under the Act due to her teaching salary because it is salary from a government agency. A conflict could arise out of decisions affecting her personal finances.

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Breton K. Lobner
San Diego County
Dated: April 14, 2005
File Number I-05-053

A general counsel for an airport authority seeks informal assistance regarding decisions involving the authority's retirement plan. Pension benefits from a state, local or federal government agency do not constitute "income" under section 82030(b)(2).

Elizabeth Wagner Hull
City of Chula Vista
Dated: April 15, 2005
File Number I-05-058

A council member sold his real property located within 500 feet of property that the city council will make decisions about. The council member no longer has an economic interest regarding property within 500 feet of the real property that is the subject of the decisions. He may participate in certain decisions if his sources of income are not affected by the decisions.

Garith W. Krause
City of Merced
Dated: April 15, 2005
File Number A-05-036

Although an agency had been filing its conflict of interest code with the FPPC on the basis of being considered a multi-county agency, the agency is actually a county agency. The appropriate conflict-of-interest code reviewing body for the agency will henceforth be the county board of supervisors.

Peter A. Laurence
City of Clayton
Dated: April 19, 2005
File Number A-05-045

A public official is advised that he does not have a conflict of interest participating in a governmental decision regarding changes to the city's business license fee collection practices if the financial effect on his economic interest does not meet the materiality standard of the Act.

Elizabeth Wagner Hull
City of Chula Vista
Dated: April 21, 2005
File Number A-05-057

A city attorney seeks advice on behalf of a city council member regarding whether the official can participate in decisions involving the city's general plan update. A prior advice letter stated that the council member could not participate because it was presumed that the financial effect on his primary residence (which was within 500 feet of property affected by the general plan changes) would be material. The city attorney is advised after regulation 18704.2 was amended to include the general plan exception that the council member did not qualify for the exception because the general plan changes involved identifiable parcels of land.

Patrick A. Muñoz
City of Dana Point
Dated: April 27, 2005
File Number A-05-032

A council member asks about the application of the 500-foot rule when determining whether real property is directly or indirectly involved in a governmental decision. The general rule is that distance is measured from the edge of the entire subject property, although there have been some exceptions. In limited circumstances, where the governmental decision only affects a clearly defined, specific and isolated site, such as a specific building on a large tract of land, the distance may be measured from that clearly defined and specifically affected portion. Those circumstances do not apply to the specific plan decisions in this case.

Ron Orenstein
City of Willits
Dated: April 27, 2005
File Number I-05-055

The Act's conflict of interest rules prohibit a city councilman — whose neighbor grows medicinal marijuana — from participating in the crafting or passage of proposed ordinances that could regulate the growth or dispensing of marijuana, unless he can demonstrate that such ordi-

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nances would affect his economic interests in substantially the same manner as the public generally.

Brien J. Farrell
City of Santa Rosa
Dated: March 14, 2005
File Number A-04-198

A complicated business transaction will not result in a public official having an economic interest in an investor.

Michael R. W. Houston
Rutan & Tucker, LLP
Dated: March 14, 2005
File Number A-04-248

A member of a board is advised that he may participate in a CALPERS decision due to the "government salary exception" and regulation 18705.5.

John G. Barisone
City of Santa Cruz
Dated: March 11, 2005
File Number A-04-271

A council member and employee of a labor union is advised regarding the renegotiation of its labor contract with the city, as well as other related decisions. He is disqualified from participating in the decisions.

Mark S. Rosen
City of Garden Grove
Dated: March 17, 2005
File Number A-05-005

A city council member owns property within 500 feet of property the city may purchase. He is advised he may participate in certain city decisions to acquire the parcels.

Heather C. McLaughlin
City of Benicia
Dated: March 28, 2005
File Number A-05-013

A mayor and city council member are advised that they have a conflict of interest in participating in a governmental decision where they each own property located within 500 feet of the boundaries of the property that is the sub-

ject of the decision.

Robert L. Kress
City of La Verne
Dated: March 30, 2005
File Number I-05-018

A local public official may be precluded by the Act's conflict-of-interest provisions from participating in local government decisions regarding the development of a light rail station in his city, depending upon the character and/or location of his real property and insurance business interests.

Patrick A. Muñoz
Rutan & Tucker, LLP
Dated: March 18, 2005
File Number A-05-019

A public official has a conflict of interest prohibiting him from participating in a governmental decision involving the adoption of a specific plan where he owns property located within 500 feet of the boundaries of the specific plan, unless it is not reasonably foreseeable that the governmental decision will have any financial effect on his property.

Jeffrey A. Walter
City of Martinez
Dated: March 18, 2005
File Number I-05-021

A public official does not have a conflict of interest under the Act in participating in and voting on a governmental specific plan unless the financial effects of the governmental decision are substantially likely to cause a material financial effect on one or more of his sources of income.

Ronald R. Ball
City of Carlsbad
Dated: March 11, 2005
File Number I-05-022

A council member asks whether she can participate in the formation of a business improvement district in his city. The district would be comprised of hotel operators within the City and the council member owns a hotel in the proposed district. She may participate in some decisions.

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Thomas D. Jex
City of Banning
Dated: March 22, 2005
File Number A-05-023

A public official who has reserved a lot in a master planned community, which is approximately 1,500 feet from a proposed development, is advised that he should disqualify himself from decisions regarding the approval of the proposed development because, from the facts provided in the letter, it appears reasonably foreseeable that decisions regarding the proposed development will have a material financial effect on the public official's real property interest.

G. Wayne Eggleston
City of San Clemente
Dated: March 14, 2005
File Number I-05-029

A city council member is provided general assistance regarding the Act's conflict-of-interest provisions. The Act does not prohibit the council member from participating in decisions regarding a proposed development project because he responded as a private citizen to an EIR. No financial interests of the official were identified.

Heather C. McLaughlin
City of Benicia
Dated: March 23, 2005
File Number A-05-033

A city mayor and council member both own real property within 500 feet of schools in a unified school district. The city council is going to have decisions to make about closing a school in the district. The council member and mayor may not participate in decisions about the selections of the school to be closed.

Mark Heauser
City of Nevada
Dated: March 9, 2005
File Number I-05-034

A newly elected school board member asks if the Act prohibits his local auto service business from contracting with the district. The

board member is advised that the Act does not prohibit that business relationship. However, the board member is prohibited from participating in or influencing the decision to contract with or purchase from his business. In addition, the board member was cautioned that Government Code section 1090 may apply, and was referred to the Attorney General's office for advice.

James C. Harrison
Public Utilities Commission
Dated: March 22, 2005
File Number I-05-039

A potential appointee asks if his investments in five different investment funds and the stocks held by those funds are economic interests under the Act. The funds qualify as his economic interests under the Act. However, his investment in the funds must meet or exceed 10 percent of the fund in order to attribute additional economic interests to him by piercing to the assets held by the fund. Even then, a public official will only have an economic interest in the assets of the fund if he or she has a pro rata share of the asset of at least \$2,000. In this case, if he becomes a public official, he only would have an economic interest in the funds themselves since he does not meet the threshold amounts.

Richard R. Terzian
City of South Pasadena
Dated: March 22, 2005
File Number A-05-050

An adult sibling's income is not disqualifying unless it causes a personal financial effect on the public official.

Douglas P. Haubert
Aleshire & Wynder, LLP
Dated: February 18, 2005
File Number A-04-253

Based on the application of the *Siegel* analysis and the totality of the circumstances, a transportation network is a "local government agency" and must adopt a conflict of interest code.

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Daniel J. McHugh
City of Redlands
Dated: February 15, 2005
File Number A-04-276

A public official is advised regarding the "personal financial effects" rule where he serves as the city council's designated negotiator for the city council.

Sharon D. Stuart
City of Lompoc
Dated: February 17, 2005
File Number A-05-003

A councilman who is the sole owner of a business is advised regarding potential conflicts of interest that may arise from sources of income.

Richard R. Rudnansky
City of Petaluma
Dated: February 10, 2005
File Number A-05-004

A council member asked if he may participate in decisions concerning an application for a general plan amendment, specifically a zoning amendment and a tentative map to allow for residential development on a project site, which is located near the country club, where he is a member. Membership in the country club, a nonprofit entity, is an asset in which he has an economic interest but not an investment in a business entity under the Act. Therefore, he may participate in city council decisions about a project to build on property near the country club, if the decisions do not affect the value of the membership in the club by \$250 in a 12-month period.

Diane M. Fishburn
Olson, Hagel & Fishburn, LLP
Dated: February 4, 2005
File Number I-05-011

A public utility does not become a "source of income" under the Act's reporting and conflict-of-interest provisions when it serves as a conduit for payment of "public good charge" funds to an official's consulting firm pursuant to an agreement with the University of California and California State University, who directed and controlled the payment.

Gerald Pedesta
City of Lone
Dated: February 22, 2005
File Number A-05-025

A mayor asks if the "public generally" exception applies to permit him to participate in a decision by the city council concerning the proposed formation of two community facilities districts even though he owns property within the area under consideration which will be assessed with a special tax lien. This type of Mello-Roos tax qualifies under the purview of regulation 18707.2 — the special public generally exception for rates and assessments so that the mayor is permitted to participate so long as the decision remains limited to the deletion and implementation of the special tax lien.

Damien B. Brower
City of Redwood City
Dated: February 7, 2005
File Number A-04-230

A person who is a source of income to a public official still has an interest in real property which may be materially affected by a decision. Therefore, a potential conflict of interest still exists for the official.

Harriet A. Steiner
City of Davis
Dated: January 28, 2005
File Number A-04-272

Two businesses (one of which is a source of income to a council member) are otherwise related business entities where: (1) the 50 percent owners of one business are the sole owners of the other business, (2) one business used the meeting rooms at the other offices of the other business, and (3) one business historically administered the payroll of the other. Where businesses are otherwise related business entities, each would "stand in the shoes" of the other with respect to the 8-step conflict of interest analysis.

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Darlene Ayers-Johnson
City of Oakland
Dated: January 24, 2005
File Number I-04-274

An appointed official who receives income from a nonprofit entity is not disqualified from participating in decisions having a material financial effect on individuals or businesses that make charitable contributions to the nonprofit.

Pamela A. McCarthy
City of Bakersfield
Dated: January 27, 2005
File Number A-05-002

The Act does not provide for filing of late contribution reports by e-mail.

Statement of Economic Interests

Thomas M. Kasten
City of Hillsborough
Dated: March 14, 2005
File Number I-05-037

"Doing business" includes businesses that do not have a physical presence in a city, but sell their goods or services to those located in the city.

H.D. Palmer
Department of Finance
Dated: March 29, 2005
Final Number A-05-043

Funds received from two non-profit organizations for treatment of a public official's developmentally disabled son are not gifts or income to the official.

Kathy Wylie
Mendocino County
Dated: February 7, 2005
File Number A-04-269

The Mendocino County Grand Jury is considered a local government agency, and the board of supervisors is the code reviewing body. Members of the jury are subject to the Act's economic disclosure provisions.

Richard Reyes
Department of Fish and Game
Dated: January 27, 2005
File Number A-04-210

A public official is advised that since he only has an investment interest in a Fortune 500 company of less than \$25,000 the exception of regulation 18705.1(b)(2) applies. Therefore, before evaluating bid proposals from bidders which may include the official's economic interest, the public official must assess whether it is reasonably foreseeable that his participation in a bidding decision will materially affect the gross revenues, expenses, assets or liabilities of the company.

Karin Murabito
City of San Jose
Dated: January 20, 2005
File Number A-04-245

The employees of a business providing technical services to a city during a software development project with a third-party provider are "consultants" within the meaning of the Act. A potentially disqualifying investment may be terminated by sale of the stock.

Victoria Wasko
City of Corona
Dated: January 11, 2005
File Number A-04-270

The employees of a firm employed by a city to conduct audits of the State Board of Equalization's tax allocations and prepare reports for the city regarding city tax data for use in the city's budget are not consultants under the Act. The firm's employees do not appear to meet the criteria in regulation 18702.2(b). The firm's employees will not make recommendations to city staff and, according to the contract, will not be conducting research. Although the firm will prepare a report for the City, the report will not offer significant analysis and will only impart information for the city's use in establishing its budget.

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Section 84308

Richard J. Chivaro
Office of State Controller
Dated: March 1, 2005
File Number A-05-014

The Controller is advised that the restrictions provided in section 84308 do not apply to him while he acts as a commissioner on the State Lands Commission.

Gift Limits

Mark Peterson
City of Concord
Dated: March 23, 2005
File Number I-05-030

A city councilmember asks how to characterize a payment made by a charitable organization to a guide company in connection with a charity mountain climb that he wishes to participate in. This letter analyzes whether this payment is a gift or income to the official. The letter also discusses the provisions of section 82015(b)(2)(B) (iii) with respect to payments to the nonprofit made at his request.

Mehdi Morshed
California High Speed Rail Authority
Dated: January 6, 2005
File Number A-04-273

If criteria in regulation 18944.2 are met, a gift of travel is deemed to be made to an agency and not to the board or staff members of the agency. In addition, if the agency invites other public officials to participate, the officials are required to report travel payments as gifts from that agency, but the gift will not be limited.

Lobbying

Mary Gardner
Birdsall and Associates
Dated: April 20, 2005
File Number A-05-051

This letter advises that a signed paper copy of a

lobbying report filed electronically is not required to be maintained. It also states that the filer is presumed to file the report under penalty of perjury even absent a signature.

Tyrone D. Bland
T.D. Bland & Associates
Dated: April 18, 2005
File Number I-05-075

Lobbyist is advised that section 91002 only restricts lobbyists' activities as a result of a criminal conviction for a violation of the Political Reform Act.

Revolving Door

Jill C. Peterson
Korshak, Kracoff, Kong & Sugano
Dated: April 19, 2005
File Number I-04-184

A former chief deputy director and acting director of a state agency is advised regarding the post-governmental employment provisions of the Act, including the one-year ban as it relates to quasi-judicial proceedings.

Bruce B. Hancock
State Allocation Board
Dated: March 25, 2005
File Number A-05-007

A state public official may not, for a period of one year after leaving state employment, appear or in any way represent others for compensation, before his former state agency or its officers or employees, for the purpose of influencing administrative or legislative action.

Scott Dosick
Department of Conservation
Dated: January 21, 2005
File Number I-04-275

A state employee is advised regarding employment restrictions he may face when attempting to acquire another position. The Act does not prohibit public officials from obtaining outside employment, but it does limit their participation through three bans: influencing prospective employment, the permanent ban on switching sides and the one-year ban.

